

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

United States of America,)	
)	
)	
vs.)	Case No. 05-0111-01-CR-W-FJG
)	
Brian M. Garner,)	
)	
)	

ORDER

Pending before the Court is the issue of defendant's competency. On April 1, 2005, defendant filed a motion for determination of competency and existence of insanity at the time of the offense (Doc. #14). Thereafter, on August 9, 2005, Chief Magistrate John T. Maughmer held a hearing regarding defendant's competency at which time the parties stipulated to the factual contents of the report prepared by Jason V. Dana, Psy.D. That report concluded that defendant presently appears to be appropriate for continuation of judicial proceedings. It further concluded that an opinion pertaining to criminal responsibility could not be formulated with a reasonable degree of clinical certainty in the absence of acknowledgment of the behaviors which the defendant is charged.

Chief Magistrate Maughmer issued a report and recommendation (Doc. #31), filed August 16, 2005, finding that defendant is competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense. No objections to the report and recommendation were filed.

The Court, after independent review of the record and applicable law, finds that defendant is not currently suffering from a mental disease or defect which would prevent him from understanding the nature and consequences of the proceedings against him or assist in his own defense.

IT IS SO ORDERED.

/s/Fernando J. Gaitan, Jr.
Judge Fernando J. Gaitan, Jr.
United States District Judge

Dated: September 14, 2005

Kansas City, Missouri